IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

WP(C).No. 28823 of 2007(F)

PETITIONER:

JACOB,S/O. CHOVALLOOR KOCHAPPU,
THAIKAD AMSOM, DESOM,
CHAVAKKAD TALUK, THRISSUR DISTRICT.

BY ADV. SRI.K.RAMACHANDRAN
SMT. R.MEERA

RESPONDENT:

THOMAS,S/O. MUTTATH JOSEPH,
MAMMIYUR DESOM, GURUVAYOOR,
CHAVAKKAD TALUK, THRISSUR DISTRICT.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO.28823 OF 2007-F

Dated 28th September, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner is the landlord of a room bearing No.XIII/192 of Guruvayur Municipality. The Rent Control Petition filed by him under Sections 11(4)(iii) and 11(3) of the Kerala Building (Lease and Rent Control) Act has been allowed by the Rent Controller. It was affirmed by the appellate authority. The revision filed against it before this Court was also dismissed. The S.L.P attempted against the said order of this Court was disposed of by the Apex Court by Ext.P1 order. The Appellate Court did not interfere with the order of this Court, but granted time up to 31.12.2007, subject to the conditions stipulated therein. One of the conditions was to file an affidavit before the Supreme Court within six weeks from 18.5.2007, undertaking, inter alia, to hand over vacant and peaceful possession of the premises to the landlord. Another condition was to pay the arrears of rent, if

any, and also to pay the monthly rent. If those conditions contained in Ext.P1 are not complied with, the landlord can move for eviction forthwith. According to the landlord, the tenant did not comply with those conditions contained in Ext.P1. So, he filed E.P.No.349/2007 for delivery and in that he filed an execution application to effect delivery without notice to the other side. But, the E.P and E.A were adjourned to 31.10.2007, as the summons to the respondent therein was not returned after service. Feeling aggrieved by the adjournment of the application and petition, this writ petition is filed under Article 227 of the Constitution of India, praying to direct the Munsiff Court, Chavakkad to order delivery of the shop room scheduled in R.C.P.47/1998 to the petitioner from the respondent.

2. The reason for motion before this Court stated by the petitioner is that the case has been adjourned to a date after three months without any justification. The adjournment of the case will normally depend upon the number of cases pending before a court. The learned Munsiff can order delivery only after hearing the other side, to ascertain whether he has complied with the conditions in Ext.P1 order of the Apex Court. The learned Munsiff cannot be blamed, if he does not solely act on the affidavit of the petitioner without hearing the other side. So, we find nothing illegal with the orders passed by the learned Munsiff. In view of the above facts,

the prayer in this writ petition is ex facie unsustainable. Accordingly, the writ petition is dismissed.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/